

EXHIBIT 58

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UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA			I N D E X		
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DEPOSITION OF JOHN P. ROCK VOLUME I, PAGES 1 - 291 NOVEMBER 4, 2016			8 32	Filtration Topics, 3MBH00031248	146
(The following is the deposition of JOHN P. ROCK, taken pursuant to Notice of Taking Deposition, via videotape, at the offices of Ciresi Conlin L.L.P., 225 South 6th Street, Suite 4600, Minneapolis, Minnesota, commencing at approximately 9:14 o'clock a.m., November 4, 2016.)			9 33	Ducky Preliminary Concepts, check-in/5.13.2009, 3MBH00031134-58	171
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<p style="text-align: right;">Page 5</p> <p>1 P R O C E E D I N G S 2 (Witness sworn.) 3 JOHN P. ROCK 4 called as a witness, being first duly sworn, 5 was examined and testified as follows: 6 A D V E R S E E X A M I N A T I O N 7 B Y M R . C I R E S I : 8 Q . Can you state your full name and the 9 spelling of your last name for the record. 10 A . John Rock, R-o-c-k. 11 Q . Mr. Rock, my name is Mike Ciresi and I'm one 12 of the lawyers representing the plaintiffs in this 13 matter. You have had your deposition taken before, 14 sir? 15 A . Yes, I have. 16 Q . Okay. So you understand the process? 17 A . Yes, I do. 18 Q . I'll be asking you questions under oath and 19 you -- I'll be asking you questions and you will be 20 responding under oath. Do you understand that? 21 A . Yes, I do. 22 Q . Okay. If at any time during the questioning 23 you do not hear or understand a question that I ask 24 you, please tell me. Is that agreeable? 25 A . Yes, it is.</p>	<p style="text-align: right;">Page 7</p> <p>1 A . I think it's four. 2 Q . And how many were involving the Bair Hugger 3 device? 4 A . Three. 5 I'm sorry. By "the Bair Hugger device," is 6 that the system or is that just the warming unit? 7 What -- what do you mean by "the Bair Hugger device?" 8 Q . The entire device, any part of it. 9 A . Three that would be. 10 Q . Okay. Do you know -- 11 Do you recall what the other deposition was 12 in? 13 A . I had a patent case that was tried in the 14 '90s, I believe mid-90's, the Walton case and the 15 Johnson case. 16 Q . Okay. Can you give us your educational 17 background, please, commencing with college. 18 A . I went to Creighton University in Omaha, 19 Nebraska, graduated with a bachelor of arts. 20 Q . When did you graduate from Creighton? 21 A . In 1980. 22 Q . Upon your graduation from Creighton what did 23 you do? 24 A . I went to work in Glacier National Park in 25 Montana.</p>
<p style="text-align: right;">Page 6</p> <p>1 Q . Okay. If you do not so advise me, I'm going 2 to assume that you have both heard and understood the 3 question. Is that also agreeable? 4 A . Yes. 5 Q . Okay. Are you on any medications of any 6 kind? 7 A . No. 8 Q . Okay. Is there any other impairment of your 9 ability to testify? 10 A . Actually, I have had medications. I've had 11 Xanax over the last couple of months -- well -- 12 Q . Okay. 13 A . -- weeks, you know, here and there, but -- 14 Q . You're not on any medication that would 15 affect your ability to testify. 16 A . No. 17 Q . How many times have you had your deposition 18 taken before, sir? 19 A . I believe it's four. 20 Q . Okay. 21 A . Did -- did you say deposition in -- in this 22 case or did -- I'm sorry. 23 Q . Depositions period. 24 A . Oh, yeah. Just four. 25 Q . Four?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q . What was your job in Glacier National Park? 2 A . I worked first in the -- kind of the gear 3 shop, and then -- 4 Q . In the what shop? 5 A . Gear shop, so hiking gear and things like 6 that. And then I worked in the finance area of the 7 lodge at St. -- I think it's St. Mary's on the east 8 side of Glacier. 9 Q . What were your duties and responsibilities 10 in the gear shop? 11 A . Serve customers that came in, tourists that 12 were coming through. 13 Q . Wanted to rent gear? 14 A . Retail -- retail sales pretty much, if I 15 remember. 16 Q . So you were a salesperson in the retail -- 17 in the gear shop. 18 A . For a very short period, yes. 19 Q . How long? 20 A . That's -- that's my recollection. That was 21 a long time ago. 22 Just -- I don't -- I don't really recall. 23 It couldn't -- couldn't have been more than a couple 24 of weeks. 25 Q . Okay. And then you said you worked in the</p>

<p style="text-align: right;">Page 217</p> <p>1 Q. Okay. Which ones?</p> <p>2 A. I read an article in the New England Journal 3 where an 80-some-year-old woman had an infection in 4 her leg that they tied to a break when it -- when she 5 was in her -- I think below 10 years old or in her 6 teens.</p> <p>7 Q. Okay. Now do you know of any studies in the 8 medical journals dealing with the Bair Hugger and 9 infection that dealt with infections manifesting 10 themselves beyond one week post operation?</p> <p>11 A. I don't remember exactly what the colorectal 12 study follow-up period was, if that was --</p> <p>13 Q. Orthopedic hip or knee joints.</p> <p>14 A. I don't.</p> <p>15 Q. You can't point to one; can you?</p> <p>16 A. I -- I just don't recall.</p> <p>17 Q. And you would agree that as of April of 2010 18 the company could neither prove nor disprove the fact 19 that the Bair Hugger causes surgical-site infections, 20 could neither prove nor disprove the fact.</p> <p>21 A. I think that's an accurate statement.</p> <p>22 Q. And did you ever -- and by "you" I mean the 23 company -- ever state publicly or in your warnings 24 accompanying the device that the company could not 25 disprove that the Bair Hugger causes surgical-site</p>	<p style="text-align: right;">Page 219</p> <p>1 it said.</p> <p>2 Q. The campaign was that you do not believe the 3 Bair Hugger causes any surgical-site infections; isn't 4 that right?</p> <p>5 A. We do not believe that.</p> <p>6 Q. And do --</p> <p>7 Yet you have no proof one way or the other.</p> <p>8 A. Oh, we -- I don't know if --</p> <p>9 We have no proof they do.</p> <p>10 Q. And you have no proof that they don't.</p> <p>11 A. Correct.</p> <p>12 Q. So you don't know one way or the other, and 13 yet you tell people that they don't.</p> <p>14 A. We don't believe they do.</p> <p>15 Q. And you have no --</p> <p>16 A. And the science -- and the science that we 17 have seems to indicate otherwise. And not just 18 science but --</p> <p>19 Q. What science?</p> <p>20 A. Well all the articles that have been 21 examined by us and all the outside agencies --</p> <p>22 Q. Excuse me.</p> <p>23 A. -- that have looked at this and at -- by the 24 FDA and everybody else that has looked at this issue.</p> <p>25 Q. The FDA has said there should be no device</p>
<p style="text-align: right;">Page 218</p> <p>1 infections?</p> <p>2 A. I don't believe that was a warning in our 3 materials.</p> <p>4 Q. Did anyone ever suggest to you -- and I'm 5 excluding legal advice -- that you should warn with 6 the operating instructions that the company has no way 7 of knowing whether its device does or does not cause 8 surgical-site infections?</p> <p>9 A. Not to my recollection.</p> <p>10 Q. So no one internally ever said, "We don't 11 know whether our device does or does not cause 12 infections. Shouldn't we say that?"</p> <p>13 A. Not to my recollection. That would just 14 confuse customers, but --</p> <p>15 Q. It would just confuse them?</p> <p>16 A. I do.</p> <p>17 Q. It wouldn't give them the opportunity to say 18 maybe they should use an alternative way of warming?</p> <p>19 A. They already have that opportunity.</p> <p>20 Q. But you have put out a campaign that it 21 doesn't cause infections; isn't that right?</p> <p>22 A. That there's no proof that there was ever an 23 infection I believe was the --</p> <p>24 Q. No.</p> <p>25 A. -- campaign, but I don't recall exactly what</p>	<p style="text-align: right;">Page 220</p> <p>1 that blows air in the operating room; hasn't it?</p> <p>2 A. I am not aware of that.</p> <p>3 Q. You're not?</p> <p>4 A. I have not seen that.</p> <p>5 Q. Well would that make a difference to you?</p> <p>6 A. I don't -- I would ask --</p> <p>7 I would put that in the scientists' hands.</p> <p>8 Q. So if the FDA said, "There should be no 9 device that blows air in the operating room," you'd 10 say, "Well, we won't follow the FDA in that regard." 11 Is that right?</p> <p>12 A. I would --</p> <p>13 MS. AHMANN: Lack of foundation.</p> <p>14 A. I would --</p> <p>15 I assume if the FDA told 3 -- well I'm not 16 3M any more, but if they told my company that we can't 17 market a device because it blows air, that we would 18 not market that device.</p> <p>19 Q. If the FDA said that nothing that blows air 20 should be in an operating room, if possible, would 21 that make a difference to you?</p> <p>22 MR. BREWER: Pardon me. Objection, 23 foundation, assumes facts not in evidence.</p> <p>24 MR. CIRESI: You may answer.</p> <p>25 MR. BREWER: Improper hypothetical.</p>